92D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
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BLACK LUNG BENEFITS

AUGUST 5, 1971.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PERKINS, from the Committee on Education and Labor, submitted the following

REPORT

together with

MINORITY AND SEPARATE VIEWS

[To accompany H.R. 9212]

The Committee on Education and Labor, to whom was referred the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes, having considered the same, report favorably thereon, with amendment, and recommend that the bill do pass.

The amendment is as follows: Strike all after the enacting clause and insert the matter that appears in the reported bill in italic type.

PURPOSE OF LEGISLATION

The basic purpose of H.R. 9212 is to amend the provisions of Title IV (Black Lung Benefits) of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and to make adjustments in the Act deemed desirable in the light of 1½ years experience in its administration.

BACKGROUND OF LEGISLATION

The payment of benefits to coal miners totally disabled due to pneumoconiosis, and to the widows of those who died with such disability, or from the disease, had its origin in a section of the House version of the Federal Coal Mine Health and Safety Act of 1969. In reporting that bill—H.R. 13950—the Committee on Education and Labor said:

> One of the compelling reasons the committee found it necessary to include this program in the bill was the failure

of the States to assume compensation responsibilities for the miners covered by this program. State laws are generally remiss in providing compensation for individuals who suffer from an occupational disease as it is, and only one State—Pennsylvania—provides retroactive benefits to individuals disabled by pneumoconiosis.

Also, it is understandable that States which are not coal-producing have no wish to assume responsibility for residents who may have contracted the ailment mining coal in another State. The substantial reduction in the number of miners actually employed in mines following World War II caused a dispersal of men throughout the country—many into States which have few, if any, mines. These men took with them an irreversible disease, but because of their present location are denied benefits.

The committee also recognized the problems inherent in requiring employers to assume the cost of compensating individuals for occupational diseases contracted in years past.

The resolution of this dilemma, consistent with the desperate financial need of individuals eligible to receive payments under this bill, was the inevitable inclusion of section 112(b), and the requirement that the payments be made from general revenues.

It is hoped that the health standards prescribed in title II will eliminate conditions in mines which cause the disease. Also, it is expected that the States will assume responsibility in their respective compensation plans for miners who contract the disease in the future.

Coal workers' pneumoconiosis is caused by the inhalation of coal mine dust. Total disability may arise due to either simple or complicated pneumoconiosis. For purposes of the benefit program, there is an irrebutable presumption that complicated pneumoconiosisis is totally disabling. A miner with complicated pneumoconiosis incurs progressive massive fibrosis as a complex reaction to dust and other factors, which may include tuberculosis and other infections. The disease in this form usually produces marked pulmonary impairment and considerable respiratory disability.

Such respiratory disability severely limits the physical capabilities of the individual, can induce death by cardiac failure, and may contribute to other causes of death. Once the disease is contracted, it is progressive and irreversible.

Simple pneumoconiosis may also be totally disabling, though the law does not contain a presumption that a miner is totally disabled if he has it. Rather, the present test is the ability of the miner to engage in "any substantial gainful activity."

Comment on the general health of coal miners compared with that of other workers, taken from the digest of the most recent international conference on the subject, is appropriate at this point:

> The principal studies carried out in the United States which bear on this subject have been studies of mortality rates among coal miners. These suggest that, in the past, the

risk of death among coal miners has been nearly twice that of the general population and higher than that of any other occupational group in the United States. Contributing heavily to this excess have been deaths from accidents and respiratory diseases. The fact that the excess of respiratory disease deaths increases sharply with the age of the miner strongly suggests the importance of environmental factors. Mortality rates of coal miners for most other causes are also high, and the picture obtained from studying mortality data is one of generally poor health. Unfortunately, the latest study available is for the year 1950, and health levels may have improved considerably since that time. The mortality rates of United States coal miners contrast sharply with mortality rates published for coal miners in Great Britain. In that country, coal miners' mortality for all causes is elevated only about 15% above that for the general population, although special studies of cohorts in certain areas of Great Britain do show excesses of as much as 50%.

Committee Action

The General Subcommittee on Labor received testimony on black lung legislation during its oversight hearings into the Hyden, Kentucky, coal mine disaster. The hearings were conducted March 9–13. The Subcommittee received additional testimony on May 19, and the full Committee on June 22. The Subcommittee unanimously ordered the bill reported and the full Committee, on June 23, ordered the bill reported by a vote of 22–1.

Summary of Major Provisions

H.R. 9212 embodies the concepts of several bills designed to improve the administration of the black lung benefits program, and to make it more equitable.

Section 1 provides for the payment of black lung benefits to "double orphans." Title IV of the Act now provides that benefits may be paid only to miners or their widows. When both the miner and his spouse are deceased, the dependent surviving children (referred to as "double orphans") are not entitled to benefits. The Act permits augmented benefits to a miner or his widow for the support of their dependent children, but withdraws that support when both the miner and widow have died. Section 1 of the bill corrects this inequity.

"Child" is defined in accordance with the Federal Employees Compensation Act, and would mean: "an individual who is unmarried and (1) under 18 years of age, or (2) incapable of self-support because of physical or mental disability which arose before he reached 18 years of age or, in the case of a student, before he ceased to be a student, or (3) a student." "Student" is also defined to mean "an individual under 23 years of age who has not completed 4 years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution. . ."

If the claim of a child is filed within 6 months after the month in which the bill is enacted, benefit payments—assuming the child meets

the eligibility requirements—will be made to the child retroactively to December 30, 1969 (the date of enactment of the Federal Coal Mine Health and Safety Act), except that payments cannot be made for a period before the date a child actually met the eligibility requirements. If the child is not eligible for benefits at the time of filing, but was eligible during a period since December 30, 1969, he is entitled to benefit payments for that period of eligibility.

If the claim of a child is filed after 6 months following the month in which the bill is enacted, benefit payments—assuming the child meets the eligibility requirements—will be made retroactively to a date 12 months preceding the date the claim is filed, except that payments cannot be made for a period before the date a child actually met the eligibility requirements. If the child is not eligible for benefits at the time of filing, but was eligible during the twelve-month period preceding, he is entitled to benefit payments for that period of eligibility.

The bill was amended in committee to insure that benefit payments to a child shall only be paid for so long as the child meets the eligibility criteria. The bill was also amended to permit the payment of benefits to a child claimant if the claim is filed within six months after the death of his father or mother (whichever last occurred) or by December 31, 1972, whichever is the later. This provision was included notwithstanding the requirements of any other provision, thereby establishing the "double orphans" provision as a total Federal responsibility. The committee does not intend that the requirements of part C of Title IV of the Act include a "double orphans" provision.

The committee is not aware of many cases of "double orphans" who would be eligible for benefits under the bill, but those few cases brought to the attention of the committee are truly heart-rending. In presenting testimony on the subject, Mr. Bernard Popick, Director of the Bureau of Disability Insurance in the Social Security Administration, supported the inclusion of "double orphans" within the coverage of the black lung benefits program.

Section 1 also permits the Secretary of Health, Education, and Welfare to prescribe regulations consistent with provisions of the Social Security Act relating to overpayments and underpayments, payments to incompetents, and claimant representation.

Section 2 states that the existing black lung benefits program "shall not be considered a workmen's compensation law or plan for purposes of" the disability insurance provisions of the Social Security Act. Under those provisions, Social Security disability benefits to a worker and his family must be reduced under certain specified circumstances if he is also entitled to workmen's compensation, and if the combined benefits exceed 80 percent of the worker's average pre-disability earnings.

This section of the bill merely proposes to affirm by statute what was stated repeatedly during Congressional consideration of the original legislation, and what was clearly intended. Under an erroneous interpretation some miners, who were receiving disability insurance benefits and who were eligible for and awarded black lung benefits, have suffered an actual reduction in total benefits received. They have found themselves in the position of receiving less in benefits once their black lung claims were approved, than they had been receiving prior to such approval.

The Social Security Administration estimates that less than 5% of black lung applicants are affected by this provision.

To support this provision and to demonstrate the clear intent of the Congress, the following legislative history is presented at this point:

1. The House Report on the bill (H.R. 13950) states:

This program of payments—maintained in the bill by a committee vote of 25 to 9—is not a workmen's compensation plan. It is not intended to be so and it contains none of the characteristic features which mark any workmen's compensation plan. . . .

2. The following excerpts are from the House debate on the bill:

Mr. STEIGER. of Wisconsin. It (the committee report) states:

This program of payments—maintained in the bill by a committee vote of 25 to 9—is not a workmen's compensation plan.

I am sure that the chairman would clearly agree with that statement.

Mr. PERKINS. It is not a workmen's compensation plan even though it is included in the bill because the committee found workmen's compensation statutes in various States totally inadequate to compensate the victims of black lung. It is a special compensation plan because of the hazardous nature of the employment of coal miners.

Mr. STEIGER of Wisconsin. I understand.

* * * * *

Mr. DENT. This program of payments—maintained in the bill by a committee vote of 25 to 9—is not a workmen's compensation plan. It is not intended to be so and it contains none of the characteristic features which mark any workmen's compensation plan. Moreover, it is clearly not intended to establish a Federal prerogative or precedent in the area of payments for the death, injury, or illness of workers.

* * * * *

Mr. BURTON of California. Mr. Chairman, I rise in opposition to the amendment. Of all the sections of the bill, this is the one section that by no stretch of the imagination could be called in any manner, shape, or form anything but bipartisan.

It is intended, as the committee report so very emphatically and unambiguously states:

This payment program is not a Workmen's Compensation program. It is not intended to be so. It contains none of the characteristic features which mark any Workmen's Compensation plan, and it is clearly not intended to establish a Federal prerogative or precedent in the area of payments for death, injury, or the illness of other workers.

* * * * *

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate the gentleman from California yielding. I wish simply to reassert

what I said during the general debate and what the gentleman from California has just now said so well, and that is that the provision to which the amendment refers is not a precedent. The committee report spells this out. The gentleman from California has stated it clearly and with equivocation. This is not a workmen's compensation provision.

My argument with the distingiushed gentleman from Iowa, who has sponsored the amendment which I oppose, is that he is considering this a compensation plan, and it is not. It has none of the characteristics of such, and clearly ought not to be viewed by those who are concerned about this provision as being a precedent.

Mr. HANSEN of Idaho. Mr. Chairman, will the gentleman yield?

Mr. BURTON of California. I yield to the gentleman from Idaho.

Mr. HANSEN of Idaho. Mr. Chairman, I appreciate the gentleman yielding. I associate myself with the remarks made by the gentleman from California and add this comment, that the bill has been worked out over a long period of time, very painfully, and we have come up with some limited response to the problem. I am aware of the precedent-setting possibilities of this bill, but I think the history has been such that those possibilities have been eliminated or virtually minimized.

* * * * *

Mr. SAYLOR. So this is not a workmen's compensation bill. This is a responsibility of mankind—we the Congress represent the mankind of the country—it is our responsibility to take care of this in one operation. We have provided the method whereby men suffering from this dread disease and their survivors can get some benefit. This is our responsibility as a Congress. I believe it is one of the prices we have had to pay for the mistakes of the past. I hope that this amendment will be defeated.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. SAYLOR. I am happy to yield to my colleague from Michigan.

Mr. ESCH. I thank the gentleman for yielding. I wish to associate myself with the remarks of the gentleman from Pennsylvania and to compliment him on his leadership on this bill and on this section. As one who has a personal interest, having been born in his district, and having had a father who served in the mines at the age of 14 in his district, I am aware that the gentleman in the well knows firsthand the problems of the miners and our responsibility toward them.

Hopefully this legislation in total will bring about a new era in the mines, but this amendment must be defeated so that we can give recognition to a related problem; that is, with the miners who are already afflicted from the past.

Mr. MORGAN. Mr. Chairman, will the gentleman yield?

Mr. SAYLOR. I am happy to yield to my colleague from Pennsylvania.

Mr. MORGAN. Mr. Chairman, I wish to associate myself with the gentleman. We represent the two largest active mining areas in the great State of Pennsylvania.

This is not a workmen's compensation act, as it has been described by the proponents of this amendment. It contains none of the characteristic features which mark any workmen's compensation plan. We are moving in this bill toward dust-free mines. The provisions in this bill are a limited response in a form of emergency assistance to the miners. This is not a permanent proposition.

I commend the gentleman from Pennsylvania for his remarks, and I associate myself with them.

* * * * *

Mr. DENT. I want to reassure the gentleman from Wisconsin that this is not a compensation act in any way. It is a benefit payment for services rendered in an industry that did not take care of its problem and in the States that did not take care of their problem. This is a Federal obligation as this Congress sees it.

3. The following excerpts are from the House debate on the Conference Report:

Mr. BURTON of California. * * * we have long since agreed that we were going to write a clear history that for the House portion of this bill these payments were not to be workmen's compensation payments.

* * * * *

Mr. ERLENBORN. * * * It was made very clear in this House when this bill was passed that this was not intended to be a workmen's compensation provision.

4. The following excerpt is from the Senate debate on the Conference Report:

Mr. JAVITS. * * * Now let me be clear on one matter: I am certainly not an advocate of federalization of workmen's compensation law, either generally or with respect to black lung in particular; and the conference report does no such thing. * * *

The proposal which is embodied in Title IV of the bill is, in fact, much less of an intrusion on the general principles of workmen's compensation than was in the House bill. * * *

Section 3 of the bill extends, for two years, the existing program for payment of black lung benefits. Under the Act, the program will be modified by 1973 to shift responsibility from the Federal Government to the States and mine operators. Although some States appear to have modified their workmen's compensation laws as necessary to provide adequate coverage for pneumoconiosis, and several others have bills pending in their legislatures to do so, the great majority have not yet acted. Moreover, as of June 23, only 18 State legislatures were meeting in regular session. This section will permit a reasonable and necessary additional period of time for the States to prepare to assume

responsibilities for the payment of black lung benefits, thereby relieving the Federal Government of future responsibilities.

Section 4 prohibits the use of chest X-rays as the sole basis for denial of claims under part B of Title IV of the Act, and is included to clarify congressional intent with respect to the determination of total disability due to pneumoconiosis. Though the Secretary of Health, Education, and Welfare has authority to prescribe standards for determining whether a miner is totally disabled due to pneumoconiosis, there are legislative guidelines within which such standards are to be set. The enumeration of the guidelines in section 411(c)(3) of the Act, for instance, did not establish a mutual exclusivity of diagnoses. That enumeration was an explicit direction to the Secretary, that the Congress recognized the desirability of utilizing a combination of diagnostic methods. The Committee Report is specific on this point of Congressional concern:

> The committee heard testimony [1] to the effect that X-ray examinations alone could not always establish the existence of pneumoconiosis. As the Surgeon General testified, frequently miners who have shown no X-ray evidence of the disease are found, in an autopsy, to have contracted the disease. Therefore, the committee is authorizing the Surgeon General to require any medical examinations which, in his judgment, are necessary to establish the extent and severity of the disease and otherwise to promote the health of miners.

Following are pertinent excerpts from the testimony to which the report refers:

> *Excerpts from the written statement of the Surgeon General of the United States:* * * * Coal miners' pneumoconiosis is a distinct clinical entity, resulting from inhalation of coal dust. Physicians diagnose it on the basis of X-ray evidence of nodules in the lungs of a patient with a history of long exposure to coal dust. *However, it should be pointed out that data from postmortem examinations indicate a higher prevalence of the disease than can be diagnosed from X–ray examinations.* [Emphasis supplied.]
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> *Testimony of Dr. Donald L. Rasmussen, Chief, Pulmonary Section, Beckley Applachian Regional Hospital, Beckley, W. Va.:* Of interest is the fact that those miners who have worked primarily at the face in mechanized operations become impaired on an average of 5 years earlier than men engaged in all other mining jobs. These face workers also show somewhat more X-ray abnormality, *although there is little relationship between impairment and X-ray category pneumoconiosis* * * * (emphasis supplied)
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> *Testimony of Dr. H. A. Wells, Director, Pulmonary Research Laboratory, Conemaugh Valley Memorial Hospital, Johnstown, Pa.:* But I would hasten to interject here that X-ray alone without being coupled with functional testing is going to be a poor indicator of the disease (pneumoconiosis) * * *

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[1] Hearings of the General Subcommittee on Labor, U.S. House of Representatives, on H.R. 4047; H.R. 4295; and H.R. 7976, 91st Cong., 1st Sess.

Testimony of Dr. Jethro Gough, Professor and Head, Department of Pathology and Bacteriology, Welsh National School of Medicine, Cardiff, Wales: * * * Now, since then it has been, as I answered your question, how do we go about saying who gets it (pneumoconiosis) and how long does it take? We do this survey which runs about every 5 years * * * That is, it is going to test out the function of breathing, how well a man can breathe, every 5 years, to see whether this matches up with the X-ray change. If he is not getting X-ray changes, maybe he is getting a disturbance in his breathing capacity, and this is being tested out as well * * *

Excerpts from the Annual Report 1967–68, Medical Service and Medical Research, National Coal Board, Great Britain: * * * Secondly, it was also rapidly apparent that the X-ray film was not, by itself, a reasonable measure of disability * * *

From the British Government Publication "Pneumoconiosis and Allied Occupational Chest Diseases", Ministry of Social Security, London, England:

* * * The disease (pneumoconiosis) is difficult to diagnose, especially in the early stages, and accurate diagnosis depends on three essentials—a high quality full size radiograph of the chest, a full clinical examination (including lung function tests) and complete industrial history * * *

* * * The radiograph remains the most important single factor in the diagnosis of pneumoconiosis, as defined * * * *on the other hand the opacities seen in the radiograph are not in themselves diagnostic and must be interpreted in the light of a detailed occupational history and clinical examinations* * * * (emphasis supplied)

Similar testimony [2] before the Senate Labor Subcommittee enabled ready concurrence by both Houses of the Congress that exclusive reliability on X-rays is not sufficient to establish total disability due to pneumoconiosis. A very compelling statement was made on this point by Dr. Werner A. Laquerur, Director of Laboratories, Appalachian Regional Hospital, Beckley, West Virginia:

* * * Although I am very happy to say that some of the great pathologists concur with this point, every technique which we are using in determining disease has its limitation of precision and accuracy. Unfortunately the tool of X-ray * * * is a rather crude tool, and all it does is show evidence * * * So the fact that we do not have positive X-ray evidence does not rule out that a patient or a miner does not have a coal worker's pneumoconiosis * * *

It is to be noted that the committee does not intend that the preceding, in any way, disparage the use of x-ray in detecting pneumoconiosis. Rather, the committee is of the belief that no single test is presently superior to x-ray; but, that x-ray should not act as the sole determinant in denying a claim when other evidence may establish pneumoconiosis to the extent of total disability.

[2] Hearings of the Subcommittee on Labor, United States Senate, on S. 355, S. 467, S. 1094, S. 1178, S. 1300, S. 1907, S. 2118 and S. 2284, 91st Cong., 1st Sess.

The American College of Radiology has been of considerable and generous assistance in the implementation of the program, and in advising the committee with respect to the instant subject. In a letter to the chairman of the Subcommittee, Dr. Seymour F. Ochsner, Chairman of the Board of Chancellors of the American College of Radiology, suggested "language which would direct the Secretary (of Health, Education, and Welfare) to take into consideration any and all clinical findings which would be provided by the miner or his physicians—including the x-ray findings." The committee anticipates the eventual development of improved medical techniques even more precise in detecting and categorizing pneumoconiosis.

Section 4 of the bill applies only with respect to part B of Title IV of the Act, notwithstanding any other possible implication to the contrary. The committee does not intend that section 4 be a requirement of part C.

Estimate of Costs

Pursuant to the requirements of clause 7 of rule XIII of the Rules of the House of Representatives, the following committee estimate of the cost of the legislation is presented:

FROM GENERAL REVENUES

[In millions of dollars]

	Fiscal year—					
	1972	1973	1974	1975	1976	1977
Double orphans	1.5	0.8	0.8	0.8	0.8	0.8
Disability insurance offset	None	None	None	None	None	None
Extend Federal responsibility	None	44.0	143.0	171.0	148.0	140.0
X-ray requirement	10.0	10.0	9.0	8.0	7.0	6.0

No Government agency has submitted to the committee any cost estimate by which a comparison can be made with the above committee estimate of the cost of this legislation. The estimates are based upon information supplied from several sources. The estimates on double orphans are based upon a total of 500 eligible beneficiaries for each fiscal year. The increased cost for fiscal year 1972 is a result of the retroactive feature of the provision. Social Security disability benefit payments have been reduced to black lung beneficiaries as a result of the Social Security Administration's application of offset provisions. Hence, the nonapplicability of the offset provision to the black lung benefit payments which is made legislatively clear in the reported bill will result in an estimated cost to the disability insurance trust fund of $20 million in fiscal year 72, and $10 million in each of the succeeding fiscal years, but will not result in any cost from general revenues. The line in the above table dealing with the extension of Federal responsibility is based upon information informally supplied by the Social Security Administration and is adopted by the committee as its estimate in the absence of any other information to the committee which would either support or negate it.

The estimates on the X-ray requirement provisions are based upon the premise that approximately 5,000 miners and widows have been wrongfully denied the benefits as a result of a negative X-ray finding and that each claimant would receive an average of $2,000 in benefits during the year with declining amounts needed in succeeding fiscal years because of fewer eligible applicants and beneficiaries.

Section-by-Section Analysis

Section 1.

Subsection (a) of this section amends section 412(a) of the Act to add a new paragraph dealing with the payment of benefits to children who become entitled to such benefits under the bill. These are children of miners whose deaths are due to pneumoconiosis or who were receiving benefits at the time of the miners' death, and leave no widow, and children of widows who were receiving benefits at the time of the widows' death. The amount of such benefits, if there is one child, shall be the rate provided in the Act for miners who are disabled due to pneumoconiosis. If there is more than one child, each shall be entitled to his pro rata share of an amount equal to the aggregate of the rate provided for disabled miners, plus 50 percent of such rate where there are two children, 75 percent of such rate where there are three children, and 100 percent of such rate where there are more than three children.

Subsection (b)(1) of this section amends section 412(b) of the Act, which provides for reduction of benefit payments on account of receipt of State workmen's compensation, unemployment compensation, or disability insurance, and for reductions on account of excess earnings, to provide for a reduction of benefits to children in the same manner as for other beneficiaries under the Act.

Subsection (b)(2) of this section amends section 412 to provide a definition of the term "child". The term is defined to include only unmarried children, and only those who are (1) under eighteen, or (2) incapable of self-support because of a disability arising before they reach eighteen or cease to be students (as defined), or (3) students. Stepchildren, adopted children and posthumous children are included. For purposes of this definition, a student is considered to be a person under 23 who has not completed four years of education beyond high school and is in full-time attendance at a school or an institution of higher education which is public or recognized as accredited by the bill, or at some other type of educational or training institution as defined by the Secretary of Health, Education, and Welfare. Appropriate provisions are included to insure that students do not lose their benefits during certain vacation periods or while they are prevented from attending by factors beyond their control.

Subsection (b)(3) of this section amends section 413(b) of the Act to permit the Secretary to prescribe regulations consistent with the provisions of sections 204, 205(j), 205(k), and 206 of the Social Security Act. These sections deal with the treatment of overpayments and underpayments, payments in the case of beneficiaries who are incompetent, and claimant representation.

Subsection (b)(4) of this section amends section 414 of the Act by inserting a new paragraph (2), which deals with time limitations in the case of claims by children. The provisions of the new paragraph will be applicable notwithstanding any other provisions of the part.

Under it, if a claim is filed within six months after the month of the enactment of the bill, benefit payments under the claim will be made retroactively to December 30, 1969 (the date of enactment of the original Act), or from the date the child first would have been eligible for benefits, whichever is the shorter period. If the claimant is not eligible for benefits at the time he files his claim, but was eligible during the period between December 30, 1969, and the date the claim is filed, the benefit payments will be made for that period. Where a claim is filed by a child more than six months after the month of the enactment of the bill, benefit payments made under the claim shall be retroactive for the twelve-month period preceding the filing of the claim or from the date the child first became eligible for such payments, whichever is the lesser period. Where a claim is filed by a claimant who is not eligible for benefits but was eligible for some period during the twelve-month period before the claim was filed, benefit payments will be made for the duration of that period. Claims for benefits under the amendments made by the bill will not be considered unless filed within six months after the death of the father or mother (whichever last occurred), or by December 31, 1972, whichever is the later.

Section 2.

Subsection (a) of this section amends section 412(b) of the Act to provide that part B of the Act will not be considered a workmen's compensation law or plan for purposes of section 224 of the Social Security Act. This provision is included to emphasize the original intent of the Congress that the black-lung benefits program should not serve as a precedent for Federal workmen's compensation, and should not be represented as a workmen's compensation law or plan. This amendment will be effective from December 30, 1969, the original date of the enactment of the Act.

Section 3.

This section continues the timetable under the Act for two additional years. This provision will permit an additional period for the States to prepare to assume responsibilities for providing black-lung benefits to beneficiaries under the Act, thereby relieving the Federal Government of future responsibilities.

Section 4.

This section amends the first sentence of section 413(b) of the Act, which deals with procedures to be used in determining entitlement under the Act, to provide that claims for benefits may not be denied solely on the basis of the results of a chest X-ray.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE IV OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

TITLE IV—BLACK LUNG BENEFITS

PART A—GENERAL

SEC. 401. Congress finds and declares that there are a significant number of coal miners living today who are totally disabled due to pneumoconiosis arising out of employment in one or more of the Nation's underground coal mines; that there are a number of survivors of coal miners whose deaths were due to this disease; and that few States provide benefits for death or disability due to this disease to coal miners or their surviving dependents. It is, therefore, the purpose of this title to provide benefits, in cooperation with the States, to coal miners who are totally disabled due to pneumoconiosis and to the surviving dependents of miners whose death was due to such disease; and to ensure that in the future adequate benefits are provided to coal miners and their dependents in the event of their death or total disability due to pneumoconiosis.

SEC. 402. For purposes of this title—

(a) The term "dependent" means a wife or child who is a dependent as that term is defined for purposes of section 8110 of title 5, United States Code.

(b) The term "pneumoconiosis" means a chronic dust disease of the lung arising out of employment in an underground coal mine.

(c) The term "Secretary" where used in part B means the Secretary of Health, Education, and Welfare, and where used in Part C means the Secretary of Labor.

(d) The term "miner" means any individual who is or was employed in an underground coal mine.

(e) The term "widow" means the wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion, who has not remarried.

(f) The term "total disability" has the meaning given it by regulations of the Secretary of Health, Education, and Welfare, but such regulations shall not provide more restrictive criteria than those applicable under section 223(d) of the Social Security Act.

(g) The term "child" means an individual who is unmarried and (1) under eighteen years of age, or (2) incapable of self-support because of physical or mental disability which arose before he reached eighteen years of age or, in the case of a student, before he ceased to be a student, or (3) a student. Such term includes stepchildren, adopted children, and posthumous children. For the purpose of this subsection the term "student" means an individual under twenty-three years of age who has not completed four years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is—

(1) a school or college or university operated or directly supported by the United States, or by a State or local government or political subdivision thereof;

(2) a school or college or university which has been accredited by a State or by a State-recognized or nationally recognized accrediting agency or body;

(3) a school or college or university not so accredited but whose credits are accepted, on transfer, by at least three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

(4) an additional type of educational or training institution as defined by the Secretary of Health, Education, and Welfare.

Such an individual is deemed not to have ceased to be a student during an interim between school years if the interim is not more than four months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim or during periods of reasonable duration in which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education. A student whose twenty-third birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period.

PART B—CLAIMS FOR BENEFITS FILED ON OR BEFORE DECEMBER 31, [1972] *1974*

SEC. 411. (a) The Secretary shall, in accordance with the provisions of this part, and the regulations promulgated by him, under this part, make payments of benefits in respect of total disability of any miner due to pneumoconiosis, and in respect of the death of any miner whose death was due to pneumoconiosis.

(b) The Secretary shall by regulation prescribe standards for determining for purposes of section 411(a) whether a miner is totally disabled due to penumoconiosis and for determining whether the death of a miner was due to penumoconiosis. Regulations required by this subsection shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of this title, and in no event later than the end of the third month following the month in which this title is enacted. Such regulations may be modified or additional regulations promulgated from time to time thereafter.

(c) For purposes of this section—

(1) if a miner who is suffering or suffered from pneumoconiosis was employed for ten years or more in one or more underground coal mines there shall be a rebuttable presumption that his pneumoconiosis arose out of such employment;

(2) if a deceased miner was employed for ten years or more in one or more underground coal mines and died from a respirable disease there shall be a rebuttable presumption that his death was due to pneumoconiosis; and

(3) if a miner is suffering or suffered from a chronic dust disease of the lung which (A) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one centimeter in diameter) and would be classified in Category A,

B, or C in the International Classification of Radiographs of the Pneumoconioses by the International Labor Organization, (B) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (C) when diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in clause (A) or (B) if diagnosis had been made in the manner prescribed in clause (A) or (B), then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, as the case may be.

(d) Nothing in subsection (c) shall be deemed to affect the applicability of subsection (a) in the case of a claim where the presumptions provided for therein are inapplicable.

SEC. 412. (a) Subject to the provisions of subsection (b) of this section, benefit payments shall be made by the Secretary under this part as follows:

(1) In the case of total disability of a miner due to pneumoconiosis, the disabled miner shall be paid benefits during the disability at a rate equal to 50 per centum of the minimum monthly payment to which a Federal employee in grade GS–2, who is totally disabled, is entitled at the time of payment under chapter 81 of title 5, United States Code.

(2) In the case of death of a miner due to pneumoconiosis or of a miner receiving benefits under this part, benefits shall be paid to his widow (if any) at the rate the deceased miner would receive such benefits if he were totally disabled.

(3) In the case of the child or children of a miner whose death is due to pneumoconiosis or a miner who is receiving benefits under this part at the time of his death, and who leaves no widow, and in the case of the child or children of a widow who is receiving benefits under this part at the time of her death, benefits shall be paid to such child or children, as follows: If there is one such child, he shall be paid benefits at the rate specified in paragraph (1) . If there is more than one such child, the benefits paid shall be divided equally among them and shall be paid at a rate equal to the rate specified in paragraph (1), increased by 50 per centum of such rate if there are two such children, by 75 per cenutm of such rate if there are three such children, and by 100 per centum of such rate if there are more than three such children: Provided, That benefits shall only be paid to a child for so long as he meets the criteria for the term "child" contained in section 402(g).

[(3)](*4*) In the case of an individual entitled to benefit payments under clause (1) or (2) of this subsection who has one or more dependents, the benefit payments shall be increased at the rate of 50 per centum of such benefit payments, if such individual has one dependent, 75 per centum if such individual has two dependents, and 100 per centum if such individual has three or more dependents.

(b) Notwithstanding subsection (a), benefit payments under this section to a miner or his widow *or child* shall be reduced, on a monthly or other appropriate basis, by an amount equal to any payment received by such miner or his widow *or child* under the workmen's compensation, unemployment compensation, or disability insurance laws of his State on account of the disability of such miner, and the

amount by which such payment would be reduced on account of excess earnings of such miner under section 203(b) through (l) of the Social Security Act if the amount paid were a benefit payable under section 202 of such Act. *This part shall not be considered a workmen's compensation law or plan for purposes of section 224 of such Act.*

(c) Benefits payable under this part shall be deemed not to be income for purposes of the Internal Revenue Code of 1954.

SEC. 413. (a) Except as otherwise provided in section 414 of this part, no payment of benefits shall be made under this part except pursuant to a claim filed therefor on or before December 31, [1972] *1974*, in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe.

(b) In carrying out the provisions of this part, the Secretary shall to the maximum extent feasible (and consistent with the provisions of this part) utilize the personnel and procedures he uses in determining entitlement to disability insurance benefit payments under section 223 of the Social Security Act, *but no claim for benefits under this part shall be denied solely on the basis of the results of a chest roentgenogram.* Claimants under this part shall be reimbursed for reasonable medical expenses incurred by them in establishing their claims. For purposes of determining total disability under this part, the provisions of subsections (a), (b), (c), (d), and (g) of section 221 of such Act shall be applicable. *In carrying out his responsibilities under this part, the Secretary may prescribe regulations consistent with the provisions of sections 204, 205(j), 205(k), and 206 of the Social Security Act.*

(c) No claim for benefits under this section shall be considered unless the claimant has also filed a claim under the applicable State workmen's compensation law prior to or at the same time his claim was filed for benefits under this section; except that the foregoing provisions of this paragraph shall not apply in any case in which the filing of a claim under such law would clearly be futile because the period within which such a claim may be filed thereunder has expired or because pneumoconiosis is not compensable under such law, or in any other situation in which, at the opinion of the Secretary, the filing of a claim would clearly be futile.

SEC. 414. (a) *(1)* No claim for benefits under this part on account of total disability of a miner shall be considered unless it is filed on or before December 31, [1972] *1974*, or, in the case of a claimant who is a widow, within six months after the death of her husband or by December 31, [1972] *1974*, whichever is the later.

(2) In the case of a claim by a child, this paragraph shall apply, notwithstanding any other provision of this part.

(A) If such claim is filed within six months following the month in which this paragraph is enacted, and if benefit payments are made pursuant to such claim, such benefit payments shall be made retroactively from December 30, 1969, or from the date such child would have been first eligible for such benefit payments had section 412(a)(3) been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible during the period from December 30, 1969, to the date such claim is filed, benefit payments shall be made for the duration of eligibility during such period.

(B) If such claim is filed after six months following the month in which this paragraph is enacted, and if benefit payments are made pursuant to such claim, such benefit payments shall be made retroactively from a date twelve months preceding the date such claim is filed, or from the date such child would have been first eligible for such benefit payments had section 412(a)(3) been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible during the period from a date twelve months preceding the date such claim is filed, to the date such claim is filed, benefit payments shall be be made for the duration of eligibility during such period.

(C) No claim for benefits under this part, in the case of a claimant who is a child, shall be considered unless it is filed within six months after the death of his father or mother (whichever last occurred) or by December 31, 1972, whichever is the later.

(b) No benefits shall be paid under this part after December 31, [1972] *1974*, if the claim therefor was filed after December 31, [1971] *1973*.

(c) No benefits under this part shall be payable for any period prior to the date a claim therefor is filed.

(d) No benefits shall be paid under this part to the residents of any State which, after the date of enactment of this Act, reduces the benefits payable to persons eligible to receive benefits under this part, under its State laws which are applicable to its general work force with regard to workmen's compensation, unemployment compensation, or disability insurance.

(e) No benefits shall be payable to a widow under this part on account of the death of a miner unless (1) benefits under this part were being paid to such miner with respect to disability due to pneumoconiosis prior to his death, or (2) the death of such miner occurred prior to January 1, [1973] *1975*.

PART C—CLAIMS FOR BENEFITS AFTER DECEMBER 31, [1972] *1974*

SEC. 421. (a) On and after January 1, [1973] *1975*, any claim for benefits for death or total disability due to pneumoconiosis shall be filed pursuant to the applicable State workmen's compensation law, except that during any period when miners or their surviving widows are not covered by a State workmen's compensation law which provides adequate coverage for pneumoconiosis they shall be entitled to claim benefits under this part.

(b)(1) For purposes of this section, a State workmen's compensation law shall not be deemed to provide adequate coverage for pneumoconiosis during any period unless it is included in the list of State laws found by the Secretary to provide such adequate coverage during such period. The Secretary shall, no later than October 1, [1972] *1974*, publish in the Federal Register a list of State workmen's compensation laws which provide adequate coverage for pneumoconiosis and shall revise and republish in the Federal Register such list from time to time, as may be appropriate to reflect changes in such State laws due to legislation or judicial or administrative interpretation.

(2) The Secretary shall include a State workmen's compensation law on such list during any period only if he finds that during such period under such law—

(A) benefits must be paid for total disability or death of a miner due to pneumoconiosis;

(B) the amount of such cash benefits is substantially equivalent to or greater than the amount of benefits prescribed by section 412(a) of this title;

(C) the standards for determining death or total disability due to pneumoconiosis are substantially equivalent to those established by section 411, and by the regulations of the Secretary of Health, Education, and Welfare promulgated thereunder;

(D) any claim for benefits on account of total disability or death of a miner due to pneumoconiosis is deemed to be timely filed if such claim is filed within three years of the discovery of total disability due to pneumoconiosis, or the date of such death, as the case may be;

(E) there are in effect provisions with respect to prior and successor operators which are substantially equivalent to the provisions contained in section 422(i) of this part; and

(F) there are applicable such other provisions, regulations or interpretations, which are consistent with the provisions contained in Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended, which are applicable under section 422(a), but are not inconsistent with any of the criteria set forth in subparagraphs (A) through (E) of this paragraph, as the Secretary, in accordance with regulations promulgated by him, determines to be necessary or appropriate to assure adequate compensation for total disability or death due to pneumoconiosis.

The action of the Secretary in including or failing to include any State workmen's compensation law on such list shall be subject to judicial review exclusively in the United States court of appeals for the circuit in which the State is located or the United States Court of Appeals for the District of Columbia.

SEC. 422. (a) During any period after December 31, [1972] *1974*, in which a State workmen's compensation law is not included on the list published by the Secretary under section 421(b) of this part, the provisions of Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended (other than the provisions contained in sections 1, 2, 3, 4, 7, 8, 9, 10, 12, 13, 29, 30, 31, 32, 33, 37, 38, 41, 43, 44, 45, 46, 47, 48, 49, 50, and 51 thereof) shall (except as otherwise provided in this subsection and except as the Secretary shall by regulation otherwise provide), be applicable to each operator of an underground coal mine in such State with respect to death or total disability due to pneumoconiosis arising out of employment in such mine. In administering this part, the Secretary is authorized to prescribe in the Federal Register such additional provisions, not inconsistent with those specifically excluded by this subsection, as he deems necessary to provide for the payment of benefits by such operator to persons entitled thereto as provided in this part and thereafter those provisions shall be applicable to such operator.

(b) During any such period each such operator shall be liable for and shall secure the payment of benefits, as provided in this section and section 423 of this part.

(c) Benefits shall be paid during such period by each such operator under this section to the categories of persons entitled to benefits under section 412(a) of this title in accordance with the regulations of the Secretary and the Secretary of Health, Education, and Welfare applicable under this section: *Provided*, That, except as provided in subsection (i) of this section, no benefit shall be payable by any operator on account of death or total disability due to pneumoconiosis which did not arise, at least in part, out of employment in a mine during the period when it was operated by such operator.

(d) Benefits payable under this section shall be paid on a monthly basis and, except as otherwise provided in this section, such payments shall be equal to the amounts specified in section 412(a) of this title.

(e) No payment of benefits shall be required under this section:

(1) except pursuant to a claim field therefor in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe;

(2) for any period prior to January 1, [1973] *1975;* or

(3) for any period after [seven] *nine* years after the date of enactment of this Act.

(f) Any claim for benefits under this section shall be filed within three years of the discovery of total disability due to pneumoconiosis or, in the case of death due to pneumoconiosis, the date of such death.

(g) The amount of benefits payable under this section shall be reduced, on a monthly or other appropriate basis, by the amount of any compensation received under or pursuant to say Federal or State workmen's compensation law because of death or disability due to pneumoconiosis.

(h) The regulations of the Secretary of Health, Education, and Welfare promulgated under section 411 of this title shall also be applicable to claims under this section. The Secretary of Labor shall by regulation establish standards, which may include appropriate presumptions, for determining whether pneumoconiosis arose out of employment in a particular underground coal mine or mines. The Secretary may also, by regulation, establish standards for apportioning liability for benefits under this subsection among more than one operator, where such apportionment is appropriate.

(i)(1) During any period in which this section is applicable with respect to a coal mine an operator of such mine who, after the date of enactment of this title, acquired such mine or substantially all the assets thereof from a person (hereinafter referred to in this paragraph as a "prior operator") who was an operator of such mine on or after the operative date of this title shall be liable for and shall, in accordance with section 423 of this part, secure the payment of all benefits which would have been payable by the prior operator under this section with respect to miners previously employed in such mine if the acquisition had not occurred and the prior operator had continued to operate such mine.

(2) Nothing in this subsection shall relieve any prior operator of any liability under this section.

SEC. 423. (a) During any period in which a State workmen's compensation law is not included on the list published by the Secretary under section 421 (b) each operator of an underground coal mine in such State shall secure the payment of benefits for which he is liable under section 422 by (1) qualifying as a self-insurer in accordance with regulations prescribed by the Secretary, or (2) insuring and keeping insured the payment of such benefits with any stock company or mutual company or association, or with any other person or fund, including any State fund, while such company, association, person or fund is authorized under the laws of any State in insure workmen's compensation.

(b) In order to meet the requirements of clause (2) of subsection (a) of this section, every policy or contract of insurance must contain—

(1) a provision to pay benefits required under section 422, notwithstanding the provisions of the State workmen's compensation law which may provide for lesser payments;

(2) a provision that insolvency or bankruptcy of the operator or discharge therein (or both) shall not relieve the carrier from liability for such payments; and

(3) such other provisions as the Secretary, by regulation, may require.

(c) No policy or contract of insurance issued by a carrier to comply with the requirements of clause (2) of subsection (a) of this subsection shall be canceled prior to the date specified in such policy or contract for its expiration until at least thirty days have elapsed after notice of cancellation has been sent by registered or certified mail to the Secretary and to the operator at his last known place of business.

SEC. 424. If a totally disabled miner or a widow is entitled to benefits under section 422 and (1) an operator liable for such benefits has not obtained a policy or contract of insurance, or qualified as a self-insurer, as required by section 423, or such operator has not paid such benefits within a reasonable time, or (2) there is no operator who was required to secure the payment of such benefits, the Secretary shall pay such miner or such widow the benefits to which he or she is so entitled. In a case referred to in clause (1), the operator shall be liable to the United States in a civil action in an amount equal to the amount paid to such miner or his widow under this title.

SEC. 425. With the consent and cooperation of State agencies charged with administration of State workmen's compensation laws, the Secretary may, for the purpose of carrying out his functions and duties under section 422, utilize the services of State and local agencies and their employees and, not withstanding any other provision of law, may advance funds to or reimburse such State and local agencies and their employees for services rendered for such purposes.

SEC. 426. (a) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to issue such regulations as each deems appropriate to carry out the provisions of this title. Such regulations shall be issued in conformity with section 553 of title 5 of the United States Code, notwithstanding subsection (a) thereof.

(b) Within 120 days following the convening of each session of Congress the Secretary of Health, Education, and Welfare shall submit to the Congress an annual report upon the subject matter of part B of this title, and, after January 1, [1973] *1975*, the Secretary of Labor shall also submit such a report upon the subject matter of part C of this title.

(c) Nothing in this title shall relieve any operator of the duty to comply with any State workmen's compensation law, except insofar as such State law is in conflict with the provisions of this title and the Secretary by regulation, so prescribes. The provisions of any State workmen's compensation law which provide greater benefits than the benefits payable under this title shall not thereby be construed or held to be in conflict with the provisions of this title.

MINORITY VIEWS ON H.R. 9212

In its present form we are opposed to the bill H.R. 9212 as reported by the committee. The bill consists of four sections all of which amend title IV of the Federal Coal Mine Health and Safety Act of 1969 and is designated in the act as "Black Lung Benefits". We object to sections 2, 3, and 4 of the bill but approve of the principle embodied in section 1. We feel that in view of the broad and bipartisan support among our committee members for the principle and goal of section 1 it should have been treated as a measure separate and distinct from the changes which would be made in title IV by sections 2, 3, and 4. We find these changes objectionable and, as a practical matter, unrelated and unnecessary to achieve the purposes and goal of section 1. The only reason we have heard for lumping together all four of these amendments is a public statement by the chairman of the committee to the effect that section 1 will carry section 2, 3, and 4 with it; in other words, that the strong support for the principle of section 1 will help assure the approval of the quite controversial provisions in sections 2, 3, and 4 of the committee bill. Our efforts to achieve this desirable separation in committee were fruitless.

SUMMARY OF TITLE IV—BLACK LUNG BENEFITS

Federal benefits under title IV are to be paid only for total disability of underground coal miners arising out of the ailment generally known as "black lung" which is pneumoconiosis caused by the inhalation of coal dust. Benefits are also provided for the widows of such miners and where there is a surviving widow along with other dependents, the widow's benefit is substantially increased.

Title IV consists of three parts. Part A includes the definitions of the terms used in title IV and a statement of purpose. It finds that there are a significant number of miners who are totally disabled from pneumoconiosis, there are dependent survivors of such miners, and that few States provide benefits for either. It then declares that the purpose of title IV is to provide such benefits.

Part B in relevant part, deals with claims for benefits filed on or before December 31, 1972, by eligible miners or their widows. Benefits may be paid to widows only if such benefits were actually being paid to the miner prior to his death, or the miner died prior to January 1, 1973. No benefits are to be paid under this part after December 31, 1972, if the claim therefor was filed after December 31, 1971, except in the case of a widow who filed her claim prior to December 31, 1972, or within 6 months after the death of the miner whichever is later. Any other claim filed thereafter is governed by the provisions of part C except that benefits may be received under part B but only up to December 31, 1972, by such other claimants who filed during the calendar year 1972.

Part C, in relevant part, shifts the Federal benefit program, as set forth in part B, to the workmen's compensation programs of the several States. It provides that on and after January 1, 1973, claimants for benefits because of coal-dust pneumoconiosis shall file their claims pursuant to the applicable State workmen's compensation law.

If the applicable State law fails to meet the standards prescribed by the Secretary of Labor or has no provision of law providing for compensation in connection with coal-dust pneumoconiosis, the operator of an underground coal mine must pay benefits to those of his miners who become disabled or who died because of coal-dust pneumoconiosis arising out of their employment in his mine. However, such benefits are not required to be paid under part C by any State or operator for any period prior to January 1, 1973, or for any period after 7 years following December 30, 1969, the date of enactment of the Federal Coal Mine Health and Safety Act, that is, after December 30, 1976. If a coal mine operator fails to pay benefits as required by part C, or there is no operator who was required to pay such benefits, the Secretary of Labor shall pay them to the eligible claimant, and the operator shall be liable to the United States in a civil suit for an equal amount.

PROPOSED LENGTHENING OF THE TIME PERIOD FOR FEDERAL BENEFITS AND REGULATIONS

The purpose of title IV was to establish a temporary Federal program of black lung benefits which it was felt would no longer be needed after the expiration of the program because (1) the number of potential beneficiaries would decline both rapidly and substantially as a consequence of the extremely low maximum coal dust densities prescribed by the act, and hence the resulting decrease in the incidence of coal-dust pneumoconiosis; and (2) the several States would establish and develop their own programs of compensation for those afflicted with the disease, particularly with the assistance provided to the States, financially and otherwise, as provided in section 503 of the act precisely for that purpose.

Within 1 week of enactment, 18,000 claims had been filed; by the end of the first month the number had risen to almost 100,000, and continued to grow rapidly thereafter. It is not surprising that the all-out effort on the part of the agency to protect all the rights of potential beneficiaries, coupled with the lack of comprehension of the complex and technical requirements for eligibility to receive benefits, resulted in applications from a very substantial number who were eventually found not to meet the eligibility requirements of the law.

Currently, total claims filed since enactment approximate 290,000 with about 10,000 new claims being received each month. Decisions have already been completed in about 250,000 of the total claims filed, which in our opinion constitutes some sort of a peak record for speed on the part of an administrative agency handling a new and complicated program during a period of less than a year and a half from the program's inception.

Of the 250,000 decisions made, almost half (120,000) represent payment awards—70,000 to miners and 50,000 to widows, with the num-

ber of both types of awards increasing each week as additional claims are processed.

Taking into account miners, and widows and dependents covered, over 200,000 people are currently beneficiaries of the program. Benefit disbursements to date have been almost $275 million and current monthly payments total about $22 million (an annual rate of about $264 million). The Office of the Actuary of the Social Security Administration now estimates that by the end of the fiscal year (July 1972), benefit disbursements are expected to be $375 million annually and total beneficiaries at that time will be about 260,000.

These statistics are particularly illuminating in several respects. In the course of the consideration during 1969 of the bills which eventually became the Federal Coal Mine Health and Safety Act, the proponents of the black-lung benefits (title IV) program asserted that the annual cost of the program would be in the neighborhood of $40 million annually. Critics of the proposal declared that it would range anywhere from $250 million to $500 million. Apart from the fact that these critics were far more accurate in their estimates and that the proponents apparently hadn't even the flimsiest evidence on which to base their belief concerning the size and scope of the program, the contrast between these estimates of the proponents and the current statistics completely confound their accusation that the Social Security Administration is improperly denying an enormous number of claims.[1]

On the basis of the 120,000 claims approved at an annual total cost of about $264 million currently, we find that the individual benefits thus average about $2,200 annually per award. Applying this rate to the $40 million estimate made in 1969 by the proponents of the program, it follows as a matter of simple arithmetic that they must have envisaged the number of awards at about 18,180. The actual number as described above is currently 120,000 and steadily increasing. In the face of this contrast, how can they seriously maintain that the Social Security Administration is improperly denying a huge number of claims?[2]

There is one factor which contributes substantially to the huge number of claims which have been thus far approved, and this factor itself is a direct refutation of the charge that the agency seeks to deny as many as possible of the claims which have been filed.

The Social Security Administration has in all important phases of the act, administered it as liberally as possible. It has resolved virtually all doubts and statutory ambiguities or contradictions in favor of the claimant to the extreme limits beyond which it would clearly be failing to adhere to the express requirements of the law and the discernible congressional intent.

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[1] It was even charged during the recent hearings on the committee bill that the Social Security Administration was under orders from "higher up" in the executive branch of the Government to deny as many claims as possible. This was not only categorically denied by the agency, but not a shred of evidence was adduced to support the charge. Its absurdity is so obvious in the face of the statistical record of the number of claims approved that it merits no further attention.

[2] During legislative consideration of the bills in 1969, the Secretary of the Interior estimated that the number of claims payable by next month (July 1971) would be 61,400. Although his figure was far more realistic than that of the proponents it nevertheless underestimated the present situation by 50 percent.

The following are a few of many significant manifestations of this agency policy:

1. Although title IV can be construed, on the basis of its language in several provisions, to require an adverse decision against a widow who fails to file her claim prior to January 1, 1973, the agency has chosen to interpret the statute, admittedly somewhat ambiguous in this respect, as validating certain of such claims if filed not later than 6 months following the date of her husband's death, even though the filing occurs after January 1, 1973.

2. Title IV can reasonably be construed as denying the claim of a widow whose husband's death is not due to pneumoconiosis. The statute, however, is sufficiently ambiguous, to permit a contrary interpretation more favorable to the claimant and again the agency has chosen to apply the latter. Thus, if the miner was receiving "black-lung" benefits prior to his death, the widow's claim is virtually always approved. If the miner had not been receiving such benefits but a medical examination shortly before his death or after it (autopsy, biopsy) discloses what would have been compensable pneumoconiosis, and his death was not clearly from some totally unrelated cause (an automobile accident, for example), the widow's claim, generally, is approved.

3. Although the weight of medical opinion holds that pneumoconiosis is seldom the cause of disabling impairment until and if it reaches the complicated stage, the agency approves the claim of a miner where the X-ray evidence discloses only first-stage (simple) pneumoconiosis accompanied by severe impairment of breathing. This policy is based on the statutory provisions which create rebuttable presumptions in favor of results such as this—but in virtually every such case the presumption is accepted.

Liberal interpretations of the statute such as the foregoing, and many others as well, have obviously been a significant factor in the large number of favorable decisions on claims for black-lung benefits. More restricted statutory construction would undoubtedly have resulted in a substantial increase in the number of claims denied. The inference is almost inescapable that the overwhelming majority of the claims rejected had unmistakably failed to meet the requirements of the law under even the most liberal interpretation.

And finally, the contention of the proponents of the committee bill that a 2-year extension of all and each of the provisions of title IV (as provided in section 3 of the bill) is essential to furnish unsuccessful claimants an opportunity to ask for and receive reconsideration of their rejected claims is similarly without foundation. The Social Security Administration has already created and is already fully operating the machinery for such reconsideration.

The report points out that the backlog of initial claims filed in the first year's operations has now been virtually eliminated. With a nearly normal workload of pending initial claims the delays encountered in handling such claims in the first year no longer exist. For claims presently being filed, processing time appears to be in line with experience in processing regular social security disability claims, i.e., on the average, about 10–12 weeks from filing to completion.

There has arisen, however, an increasing number of claims in which the denied claimant is exercising his right to request reconsideration of the adverse decision. The agency is making every effort to insure that any additional evidence having a bearing on the case is obtained and carefully considered as a part of a new and independent review of the claim. Following the decision on reconsideration, a dissatisfied applicant may request a hearing before an agency hearing examiner. The examiner's decision may be appealed to the Appeals Council of the Social Security Administration, and there are further appeal rights to the Federal courts. Action is well under way to gear up the hearing process to expedite the handling of this new workload.

During consideration of section 3 of the bill in executive session of the committee, the proponents asserted in support of the amendment, that the time extension the amendment would provide was needed in order to permit reconsideration of rejected claims. This contention, on its face, is entirely without merit. If a claim has been filed and rejected, the review and appeals procedures described above are applicable. If the rejection is reversed and the claim is approved, the claimant receives exactly the same treatment as if the claim had been approved in the first place, even if the decision of reversal is not handed down until long after the statutory time period had expired. The Social Security Administration opposed extending the time limits of the existing law when it appeared before subcommittee. We join in their opposition to the enactment of section 3 of the committee bill.

"BLACK-LUNG" BENEFITS AS OFF-SETS TO SOCIAL SECURITY DISABILITY BENEFITS

Section 2 of the committee bill provides that Federal "black-lung" benefit payments under part B of title IV of the act "shall not be considered a workmen's compensation law or plan for purposes of section 224" of the Social Security Act.

Section 224 of the Social Security Act was enacted in 1965 and constitutes what is commonly called a "workmen's compensation offset" provision. For people who become disabled after June 1, 1965, and are under age 62, section 224 limits the amount of combined income from social security disability benefits and State or Federal workmen's compensation benefits. The agency regards "black-lung" benefits as benefits under a "workmen's compensation law or plan," and hence treats them is it does benefits received under State workmen's compensation laws.

Thus, the amount of the limitation on social security disability benefits for an individual who also receives black-lung benefits is either 80 percent of the worker's average current earnings before he became disabled, or 100 percent of the amount of total family benefits under the social security disability benefits program whichever is the higher. If the combined benefits would exceed this amount, the social security disability benefits are reduced by the amount of the excess.

Section 2 would require the Social Security Administration to apply section 224 so as to eliminate any reduction in the social security benefits of an individual who was also receiving black-lung benefits who would thereby receive the full amount of each benefit.

The Social Security Administration opposed the enactment of section 2 of the committee bill and we join in such opposition for the following reasons:

1. The proponents of the amendment contend that the legislative history of title IV of the Coal Mine Health and Safety Act indicates that it was the intent of Congress that "black-lung" benefits not be regarded as a workmen's compensation law or plan. To the contrary, the congressional deliberations in 1969 which led to the act indicate that the foregoing contention is quite inaccurate. What was actually discussed and emphasized was that the "black-lung" benefits program was not to be regarded as a precedent for further intrusion by the Federal Government into the field of "workmen's compensation," a legislative area traditionally occupied by and reserved to the States. This was in answer to fears expressed by Members of Congress that enactment of the benefits program would have precisely that effect.

As a matter of fact, the "black-lung" benefits program shows a congressional intent that it be deemed a temporary workmen's compensation plan designed to apply for an interim period in order to give the States an opportunity to amend or establish their own workmen's compensation laws to provide occupational disability benefits for black-lung victims.

In effectuation of this purpose, part C of title IV provides that beginning with January 1, 1973, the responsibility to grant black-lung benefits shall pass, permanently, from the Federal Government to the States; that claims thereafter shall be filed pursuant to the applicable State workmen's compensation law, not with the Federal Government. Even the time extension of 2 years proposed in section 3 of the committee bill does not in any way modify this purpose—it merely postpones its achievement for 2 years—until January 1, 1975.

The language of several provisions of title IV strongly indicates a recognition that title IV is a workmen's compensation law even if only a temporary one at the Federal level.

Thus, section 412(b) of the act provides that benefits to a miner or his widow shall be reduced by an amount equal to any payment received under the workmen's compensation law of his State, and section 412(c) forbids the consideration of any claim for benefits under part B of title IV unless the claimant has also filed a claim under the applicable State workmen's compensation law prior to or at the same time his claim was filed for the Federal benefits. This provision clearly indicates that even before responsibility for black-lung benefits passes to the States beginning in 1973, they are regarded as the kind of claims which properly fall into the domain of State workmen's compensation laws.

3. The principle behind the workmen's compensation offset provision in the Social Security Act (and in section 412(b) of the Coal Mine Health and Safety Act referred to above as well) is to prevent duplication of benefits to the extent that combined benefits equal or even exceed the worker's earnings before he became disabled. The rationale is to avoid creating a situation where it is more profitable to collect benefits than to attempt to become rehabilitated and return to work.

4. Eliminating black-lung benefits as offsets to social security disability benefits may well result in beneficiaries receiving a larger total of benefits in States where workmen's compensation laws apply to black-lung disability than in States where the laws do not provide black-lung disability benefits.

Thus, let us take as a hypothetical example, a coal miner with a wife and one child whose applicable average earnings prior to black-lung disability are $390 per month. When disabled he will receive monthly, $244 in social security disability benefits, and in a State with an applicable workmen's compensation law, $200. He will receive no Federal black-lung benefits because the $200 State payment exceeds the Federal black-lung benefit he would otherwise be entitled to and therefore offsets the latter in full. The Social Security Administration would then calculate 80 percent of his average prior earnings as $312 and give him a social security disability payment of $112 which added to his $200 workmen's compensation benefit would give a combined benefit of $312 monthly.

In a State with no workmen's compensation program applicable to black lung, the same miner would receive $244 in social security disability benefits and $153 in Federal black-lung benefits. There being no offset of any kind under the committee bill he would receive a combined monthly payment of $397. This is not only greater than the benefit he would receive in the State which had a black lung workmen's compensation law but would exceed his average earnings prior to his disability. It is difficult to imagine a more inequitable and in fact more discriminatory treatment of a State doing an excellent job in providing for its miners disabled by black lung and in favor of States which have done nothing to compensate such minors.

5. As pointed out above, section 2 of the committee bill prohibits the Social Security Administration from using black-lung benefits as an offset against social security disability benefits. It does this by imposing a limitation on the application of section 224 of the Social Security Act. We are of the opinion therefore, that section 2 in fact constitutes an amendment of the Social Security Act over which this committee has no jurisdiction and is therefore out of order in the committee bill.

In any event, the present policy of reducing social security disability benefits because of receipt of blank lung benefits is neither drastic in the degree to which total benefits are actually reduced nor is it applicable to more than a very small percentage of dual benefit recipients, actual or potential.

The offset under section 224 of the Social Security Act is not a dollar-for-dollar offset as we have pointed out earlier in these views. Recipients entitled to dual benefits are assured of automatic benefit increases. Thus, every social security benefit increase enacted by Congress is automatically added in full to the benefits paid by the Social Security Administration regardless of the 80 percent limitation. Moreover, the law requires that the average current earnings upon which the 80 percent figure rests be redetermined periodically to insure that the base of the beneficiary's combined benefits is updated to the level of current earnings. And finally, the pending social security bill, House Resolu-

tion 1, if enacted into law, will apply a new formula for determining the average earnings which will raise that average and as a result will increase the total of combined benefits a dual beneficiary may receive.

As a final consideration on section 2 of the committee bill it should be pointed out that most minor applicants for black lung benefits are men in their sixties, disabling black lung generally being the end result of many years of exposure to high coal dust levels in underground coal mines. Hence, because the offset provision in the Social Security Act is applicable only to claimants who are under the age of 62, the provision has resulted in a reduction of social security benefits for only a small percentage of those awarded black-lung benefits. The agency's data show that less than 5 percent of black lung applicants have been affected by the offset.

MEDICAL TESTS FOR DETERMINING TOTAL DISABILITY FROM COAL MINERS PNEUMOCONIOSIS

Section 4 of the committee bill would amend title IV of the Coal Mine Health and Safety Act by adding a provision that no claim for benefits under part B of said title "shall be denied solely on the basis of the results of a chest roentgenogram (X-ray)."

In testifying against that amendment the Social Security Administration pointed out that diagnostic X-ray evidence is the primary source in determining if a miner has pneumoconiosis. If positive X-ray evidence of "complicated pneumoconiosis" is found, no further evidence is required and the claim is allowed. If negative X-ray evidence is ascertained, the claim is denied. If positive X-ray evidence reveals "simple pneumoconiosis," other medical tests are needed to determine the level of severity of the impairment.

The technical and medical elements involved in dealing with coal-miner's pneumoconiosis are extremely complex and require a professional expertise which, it is safe to say, none of us on the committee possess. We think it appropriate therefore, to quote in extenso from that portion of the Social Security Administration's report which deals with these extremely difficult problems and issues recognizing that the agency has access to and has utilized the best existing professional knowledge and skill in its administration of the black lung benefit provisions of the act. The quotations read as follows:

> The basic program principle embodied in the law requiring an occupational or causal connection between disability or death and pneumoconiosis has posed a very difficult problem from a medical standpoint. At the same time, this occupational concept has also resulted in substantial claimant misunderstanding of program requirements and decision results.
>
> *Diagnosis of pneumoconiosis*
>
> Under part B of title IV, a miner is entitled to benefits if he is totally disabled due to pneumoconiosis. In line with this requirement, the regulations specify that, regardless of other impairments, total disability must be found to be caused by pneumoconiosis which is defined in the statute as a chronic

dust disease of the lungs which has arisen out of employment in underground coal mines.

To establish the casual or occupational connection with coal worker's pneumoconiosis, the regulations provide that there must be X-ray evidence of pneumoconiosis in the living applicant (in a rare case, a biopsy). This is based on the prevailing medical judgment that in the absence of positive X-ray evidence, the disease does not exist or exists to a degree that would have no significant effect on the claimant's functional capacity.

There is some minority medical opinion to the effect that disabling pneumoconiosis may exist in the absence of "positive" X-ray evidence thereof. However, this issue was thoroughly considered by the Social Security Administration, through extensive consultation with a wide range of medical specialists, and the requirement was included in the regulations as reflecting the overwhelming consensus of medical judgment on the issue.

Regulations require X-rays to be taken in conformance with acceptable medical standards and to be classified in accordance with the ILO and UICC classification system for pneumoconiosis. X-rays of good diagnostic quality can be classified reliably according to these systems.

Where existing X-ray evidence is not available for a proper determination, State agencies are responsible through special agreement for making arrangements with qualified radiologists locally to provide X-rays of claimants at program expense. Most of these radiologists have participated in the special training courses (workshops) sponsored by the Public Health Service in cooperation with the American College of Radiology and the American College of Chest Physicians, to improve techniques for taking X-rays and skills in classifying them according to the UICC and ILO systems.

To reinforce the accuracy and consistency of X-ray readings under the black-lung program, the Social Security Administration is utilizing the services of a group of eminent radiologists with outstanding experience and skill in X-ray classification under the approved systems.

Standards of disability determinations

In line with congressional intent and the direction given by the President, every effort has been made to establish disability evaluation criteria consistent with those under the regular social security disability insurance program. However, some problems existed in implementing the statutory requirement of total disability due to pneumoconiosis.

An individual's ventilatory ability may be compromised by many diseases other than coal worker's pneumoconiosis. Emphysema commonly affects this ability; neurological, muscular, infectious, or degenerative disease may do so also.

From a medical standpoint, it is impossible in most situations to determine what portion of an individual's reduced ventilatory capacity is due to coal worker's pneumoconiosis and what portion is due to one or more other diseases he has. Nevertheless, to assure fullest equity to claimants under these circumstances, favorable disability determinations have been made where a claimant has a serious breathing impairment and has pneumoconiosis.

However, some miners have emphysema or chronic bronchitis, and may be severely disabled as a result, but do not have pneumoconiosis. Under the law, claims from such miners must be denied.

Claimants frequently find it difficult to understand the basis for the distinction between these allowed and denied claims, particularly if the miner denied because he does not have pneumoconiosis is severely disabled and worked long years in underground coal mine employment.
from the fact

Some misunderstanding among applicants also results from the fact that it is possible for a miner to have "complicated" pneumoconiosis and therefore meet the statutory presumption of disability, even though he does not have a severe breathing impairment.

Death due to pneumoconiosis

Widows' claims under the act presented two special kinds of problems. First, obtaining evidence of the presence of pneumoconiosis in claims where the miner may have died many years in the past and second, the requirement for establishing a causal relationship between the disease and death, unless the miner was entitled to benefits under the act or had the "complicated" stage of the disease.

Claims which have been denied consist largely of those in which either (1) there is no evidence that the miner had chronic lung disease, or (2) the miner died as the result of trauma or clearly from an acute disease unrelated to pneumoconiosis and there is no evidence that he had the "complicated" stage of the disease.

The Social Security Administration is making every effort to assist widows in locating any evidence of probative value to support their claims. However, in the absence of any evidence that the miner died of chronic lung disease, or where there is clearly compelling evidence to the contrary, there is no basis under the law for finding that death was due to pneumoconiosis.

Public understanding of black-lung benefit program

As with the regular social security program, it has been the policy of the Social Security Administration to take positive steps to assure that members of the potentially affected public have knowledge of their rights under the black-lung

benefits provisions and understand the requirements for entitlement. The volume of applications received attests to the extent to which the public has been made aware of the potential benefits under the law. However, efforts to communicate effectively the requirements of the law have been less successful.

In some areas, there has been a high degree of misunderstanding of the intent and requirements of the law and regulations among the coal mining population. Some of the reasons for this have been discussed in previous sections of this chapter. However, even beyond this, and despite sustained efforts by the Social Security Administration and others to clarify the qualifying provisions, many claimants continue to have the strong view that the program is designed to provide supplementary benefits to underground coal miners solely on the basis of long-term mine work or, if simple pneumoconiosis is present, irrespective of the requirement of total disability due to the disease.

The foregoing exposition is in all fundamental respects consistent with the experience of the British Government and the British coalmine industry which may rightly claim to be the pioneers in the investigation, study, methods of diagnosis, and recognition of coal workers' pneumoconiosis.[3]

Section 4 of the committee bill would require the Social Security Administration to abandon the position that coal worker's pneumoconiosis can be diagnosed in the living person only by chest X-ray, is The consensus of expert medical judgment, as has been indicated, is that no means other than chest X-ray, is presently available to diagnose coal workers' pneumoconiosis, as distinguished from other respiratory ailments, in the living person. The symptoms of these other ailments are virtually identical with those of coal workers' pneumoconiosis. Thus the proposed amendment could include as comparable under the law, disability due to other lung diseases, such as emphysema and chronic bronchitis.

To extend benefits under the law to nonoccupational diseases such as emphysema and chronic bronchitis is inconsistent with the concept of occupational causality which is basic to title IV of the Coal Mine Health and Safety Act as it is to all workmen's compensation laws without exception.[4] For these reasons we join with the Social Security Administration in opposing the enactment of section 4 of the committee bill.

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[3] The general Subcommittee on Labor received a thorough briefing on the subject of black lung by the British National Coal Board during its visit to London for that purpose about 2 years ago. If anything the agency is administering our black-lung provisions as liberally (probably more so) than the British.

[4] Occupational causality is not required for social security disability benefits. Total disability, regardless of the cause, is sufficient to procure these benefits to an otherwise qualified claimant. Hence, the social security disability benefits program is not itself a workmen's compensation law or plan.

CONCLUSION

Section 1 of the committee bill provides benefits for surviving dependent children of deceased miners who were afflicted with compensable pneumoconiosis and whose mothers have also died. The present law provides no benefits for such surviving dependent children. We support the principle of granting benefits to such surviving dependent children who are commonly referred to as "double orphans." Hence, we feel that section 1 should have been presented in a separate bill and with a few minor changes it would have been acceptable on a bipartisan basis. The remaining three sections of the bill are highly controversial and as we have shown, are both unnecessary and undesirable. Therefore, like the Social Security Administration we are strongly opposed to their enactment.

ALBERT H. QUIE.
JOHN N. ERLENBORN.
EDWIN D. ESHLEMAN.
WILLIAM A. STEIGER.
EARL F. LANDGREBE.
EDWIN B. FORSYTHE.
JACK F. KEMP.

SEPARATE VIEWS OF CONGRESSMAN REID OF NEW YORK

The black-lung payments provision in title IV of the Federal Coal Mine Health and Safety Act of 1969 was a bold step forward by the Congress, and it is important that the intent of the Congress be carried out even more effectively. The pending amendments do represent marked improvements in the current law, but above all, far more must be done to administer this law more equitably.

Coal miners, their widows, and their families, have suffered in silence for too many years while medical doctors blindly overlooked or denied the existence of the deadly "black-lung" disease. The Social Security Administration must not rely for medical advice on those doctors and their medical associations who have failed to take the initiative to correct a deep injustice. Rather, the Social Security Administration must give the full benefit of the doubt to those pioneer physicians who have demonstrated their capacity to recognize pneumoconiosis, and know how difficult it is to prove through simple and ancient methods.

Testimony indicates that only 28 percent of the black-lung applications have been approved in Kentucky, 44 percent in West Virginia and 69 percent in Pennsylvania. Just because Pennsylvania has had an effective State black-lung compensation law, and better medical facilities for examinations, the approval rate for applications under Federal law has been higher. In my view, it is unfair to penalize a coal miner or his widow in Kentucky or West Virginia just because the medical facilities or records are unavailable. The Department of

Health, Education, and Welfare must take positive steps to insure that all coal miners be treated fairly, wherever they might live. This means, of course, that better examining facilities must be provided, and if necessary, mobile clinics should be provided for miners in isolated areas who cannot travel to better hospitals.

It is evident that the claims of thousands of miners and widows are being turned down because they cannot produce sufficient evidence. In my view, it is not the responsibility of a coal miner's widow, who knows her husband had disabling shortness of breath and black-lung disease, to assemble and produce huge sets of records. Furthermore, when a death certificate, the only item a widow possesses, records "heart failure" as the cause of death, the Social Security Administration should understand that many coal company doctors filling out these certificates did not recognize pneumoconiosis as a disease, or failed to record the fact that black lung put an additional burden on a coal miner's heart. The burden of proof should not be on the widow; rather, the Social Security Administration must take the initiative to seek out the facts from personal testimony by the widow, family, and friends of the deceased miner.

Basically, the Social Security Administration must greatly humanize its entire operation in administering title IV of the Federal Coal Mine Health and Safety Act. No matter how many detailed provisions we write into law, justice will not be forthcoming unless those who administer the law at the grass roots understand the problem. Coal miners and their widows are simply not equipped to deal with a vast computerized bureaucracy. Miners have risked their lives digging coal, not assembling elaborate records. Now the bureaucracy must spend a little of their time helping the miners and widows assemble the evidence to prove what an autopsy will conclusively prove; the existence of coal dust in the lungs to a disabling degree.

There is no simple way to measure this deadly and complicated disease. But the intent of the Congress in this area must be crystal clear: the law and the amendments are for the coal miners, and if it takes a little extra effort to insure that the law is fairly and sympathetically administered, then the Social Security Administration must go the extra mile or so to do so.

Finally, let me commend the subcommittee for their work on this legislation. In addition, I wish to commend the man who has done more for the coal miner, both within the Congress and without, over recent years than anyone else I know. I refer to my colleague and friend from West Virginia, Representative Ken Hechler, to whom all miners and their families should be deeply indebted.

OGDEN R. REID.

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92D CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
No. 92–460
(Part II)

BLACK LUNG BENEFITS

SEPTEMBER 14, 1971.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PERKINS, from the Committee on Education and Labor, submitted the following

REPORT

[To accompany H.R. 9212 Pt. II]

Since the filing of Report No. 92–460 on August 5, 1971, to accompany H.R. 9212, it has been noted that the report mentioned does not accurately describe the committee amendment. The committee amendment should be described as follows:

Strike out the first section and insert in lieu thereof the matter which appears in the reported bill in italic type.

Authority for the supplemental report is contained in Rule XI, clause 27, paragraph (d)(ii), which reads:

"This subparagraph does not preclude—

* * * * * * *

"(ii) the filing by any such committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter."

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65–006